



**GEODE POSITION**  
**ON**  
**ERREG's PUBLIC CONSULTATION**  
**WITH REGARD TO THE**  
**REPORT ON THE TRANSMISSION PRICING (FOR TRANSIT)**  
**AND HOW IT INTERACTS WITH ENTRY-EXIT SYSTEMS**

**Report on the Transmission Pricing – Ref: E06-GFG-18-03**

Having read through the above mentioned ERREG consultation paper, GEODE herewith puts out a statement on the issues expounded by ERREG.

**Part 1, 1: Definition and Classification of Gas Transit Flows:**

ERREG approves the requirement of the EU Gas Directive 2003/55/EC and the Regulation 1775/55/EC providing that there should be no distinction between gas flows in transit and gas flows in transport. GEODE agrees with that statement. GEODE also asks for an application of these rules to the tariff system. Consequently, there should not be a distinction between the methods to set tariffs on high pressure pipelines used for transit gas flows and those for the gas flows in transport either.

GEODE also underlines the necessity to adapt long-term contracts to the new legal circumstances. Article 32 (1) Directive 2003/55/EC rules out contracts concluded pursuant to Article 3 (1) of Directive 91/296/EEC. Due to threatening cross-subsidisation the affected contracts should be adopted as soon as possible, in case of need by legal force.

## **Part 1, 2: Requirements on Gas Transit:**

GEODE agrees with ERGEG with regard to the requirements for the gas transit according to the Energy Charter Treaty. There is no alternative to objective, reasonable, transparent, non-discriminatory and cost-based tariffs. Origin, destination or ownership of Energy Materials and Products in Transit must be treated equally. Additionally, the establishment of an effective Third Party Access must be guaranteed.

With respect to the cost based tariffs GEODE ascertains that the Regulation 1775/2005 only additionally enables national regulatory authorities to take into account the benchmarking of tariffs. The benchmarking of tariffs can only be seen as a complementary element. Thus benchmarking is only an option where appropriate. One possibility for a benchmarking approach is the validity of the matters of expense with regard to a cost-based tariff. National regulatory authorities can use benchmarking to evaluate to what extent single positions of a requested tariff are justified. That might endorse the search for an objective, reasonable, transparent, non-discriminatory and cost-based tariff.

Otherwise benchmarking should only have a small scope of application. According to Recital 7 of Regulation 1775/2005 the benchmarking of tariffs by the regulatory authorities will be a relevant consideration if effective pipeline-to-pipeline competition exists. As an exemption from the basic rule the provision requires high standards of an effective pipeline-to-pipeline competition. The national regulation authorities have to define the criteria clearly. Only a high level of transparency combined with detailed reasoning by the national regulation authorities can be a reliable basis to avoid unjustified decisions and arbitrary use of the benchmarking option. The proposed questions by ERGEG in number 23 (Part 1, 2) must be answered with great care. In order to do this, GEODE would like to ask ERGEG to render the proposed question more precisely, if necessary by giving examples. Especially question 3 is very general; a precise answer is nearly impossible. If any doubts remain, a pipeline-to-pipeline competition must be denied, due to the fact that pipelines are natural monopolies. If a pipeline-to-pipeline competition is asserted, regulatory intervention must still be possible. The use of benchmark instruments should also not lead to much higher tariffs compared to the situation of cost-based tariffs. Otherwise this would indicate collusion between competitors.

Furthermore, GEODE welcomes the acknowledgment that tariffs should bring out incentives to construct a new transit infrastructure depending on the level of cost and the degree of risks, concerning the investment. The criteria of Article 22 Directive 2003/55/EC would be a sufficient basis to determine an exemption of the cost-based tariffs. Only if there are enough economic incentives, new investments and improvements of the capacity situation will be announced. Concerning these matters GEODE does not agree with ERGEG's consideration of distance as a factor, even if it is just for not sufficiently meshed transportation grids. Otherwise the distance to a customer might become a factor which minimises the competition on the supplier market.

### **Part 1, 3: Increasing the efficiency in the usage of the pipeline**

GEODE agrees to the tariffs being designed in a manner which facilitates capacity trading, exploiting short notice market opportunities and quick reactions to market developments. These goals will be reached by the establishment of an entry-exit system where capacity booking can be done separately for each entry and exit point.

GEODE also agrees with ERGEG that capacity planning must be done on a regional level. GEODE further claims that the suggested co-operation of regulators of neighbouring countries must be done under a legal foundation. The involvement of regulators on a European level requires a dependable structure. Otherwise the aim to avoid cross-subsidies might be hard to reach.

Also important in order to increase the efficiency in the usage of the pipeline is the treatment of backhaul flows and unused capacity. Backhaul flows are able to increase the bookable capacity of the pipelines. There is no justification that in such cases the profit should solely remain with the grid owners. ERGEG should find a fair key to divide the profit between the grid users which make backhaul flows possible and grid owners. If backhaul flows do not increase the capacity GEODE totally agrees with the ERGEG proposal to take additional marginal costs provoked by backhaul flows as basis for calculation.

GEODE also supports ERGEG's proposal to render possibly the trading of unused capacity. Article 8 of Regulation 1775/2005 requires such a kind of trading. GEODE just remarks the need of a standardised European system of trading. Within this system the balance of free trading and the functioning of the network system must be

the main issue to take into consideration. The hoarding of capacity may not lead to an exemption of TPA on the primary market. The measures assumed by ERGEG seem to fit in order to reach the described balance.

GEODE appreciates the advantages of interaction of transit flows with entry-exit areas. A much more flexible market and the easier access for new entrants will cause positive effects for the supplier market. In some cases the load factor, the distance of transportation and the capital investment might be valid to be taken into account for tariffs. This approach should only be applied in exceptional cases in which any other handling would cause great unjustness. It must be denied whenever transit systems are sufficiently meshed or multidirectional flow exists. To approach this, clear criteria are needed to define the exemption and its application.